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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
WILLIAMSPORT DIVISION**

KAYLA WILLIAMS,

Plaintiff,

vs.

PENNSYLVANIA STATE UNIVERSITY; and,
BRENDAN PRAWDZIK in his individual
capacity; and, **LAUREN LANGFORD** in her
individual capacity; and, **KAREN**
FELDBAUM in her individual capacity;
and, **YVONNE GAUDELIUS** in her
individual capacity,

Defendants.

Case No. 4:20-cv-00298-MWB

**FIRST AMENDED COMPLAINT IN CIVIL
ACTION**

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT

NOW COMES the Plaintiff, Kayla Williams, by and through her attorneys,
The Trial Law Firm, LLC, Mart Harris, Esquire, and Nelson Berardinelli,
Esquire, and pursuant to Fed.R.Civ.P. 15(a)(1)(B), (by way of Fed.R.Civ.P.
7(b)(1)(B) and 83(a)(1)), files the within First Amended Complaint in Civil
Action against the Defendants as follows:

Parties

1. The Plaintiff is Kayla Williams ("Ms. Williams"). Ms. Williams
is an adult female individual who resides in Allegheny County Pennsylvania.

1 2. The First Defendant is Pennsylvania State University ("Penn
2 State"). Penn State is a public university affiliated with the Commonwealth
3 of Pennsylvania.

4 3. The Second Defendant is Brendan Prawdzik ("Mr. Prawdzik"). Mr.
5 Prawdzik is an adult individual who maintains an office in Centre County
6 Pennsylvania, as a Professor of English at Penn State.

7 4. The Third Defendant is Lauren Langford ("Ms. Langford"). Ms.
8 Langford is an adult individual who maintains an office in Centre County
9 Pennsylvania, as an Assistant Director of Penn State in the Office of
10 Student Conduct.

11 5. The Fourth Defendant is Karen Feldbaum ("Ms. Feldbaum"). Ms.
12 Feldbaum is an adult individual who maintains an office in Centre County
13 Pennsylvania and is employed by Penn State as Senior Director of Office of
14 Student Conduct.

15 6. The Fifth Defendant is Yvonne Gaudelius ("Ms. Gaudelius"). Ms.
16 Gaudelius is an adult individual who maintains an office in Centre County
17 Pennsylvania and is employed by Penn State as Associate Vice President and
18 Senior Associate Dean for Undergraduate Education.

19 **Personal Jurisdiction and Venue**

20 7. Personal jurisdiction over Ms. Williams exists, as she avails
21 herself of the jurisdiction of this Court.

22 8. Personal jurisdiction over the Defendants exists because they
23 have a regular place of business in the Middle District of Pennsylvania.

24 9. The events and omissions which give rise to the claims asserted
25 herein occurred in the Middle District of Pennsylvania in or around
26 University Park, Pennsylvania. Therefore, pursuant to 28 U.S.C. § 1391(b),
27 the District Court situated in Williamsport Pennsylvania is the proper venue
28 for this case.

Subject Matter Jurisdiction

10. This Civil Action is brought pursuant to multiple federal statutes, including but not limited to 42 U.S.C. § 1983. Therefore, the United States District Courts have Subject Matter Jurisdiction over this dispute. The Court also has supplemental jurisdiction over Ms. Williams' state law claims pursuant to 42 U.S.C. § 1367.

11. Penn State is a land grant University affiliated with the Commonwealth of Pennsylvania, and is therefore considered a governmental entity subject to 42 U.S.C. § 1983.

12. Mr. Prawdzik is a person as identified by the anti-Retaliation provisions of Title VI.

13. Ms. Williams began her freshman year at Penn State in the Fall 2016 semester. She expected and anticipated to graduate from Penn State with a Bachelor's Degree after approximately four (4) years.

Facts- Ms. Williams is "Train" Raped

14. After her first semester at Penn State, the only time she spent at the University that was not marred by rape and racism, on or about January 15, 2017, Ms. Williams was raped by two male Penn State students.

15. When Ms. Williams awoke, naked and confused, she began to get dressed while trying to piece together the incidents of the previous evening. The only thing she could remember was faces walking around a dark room, someone on top of her, and her saying to that someone "[w]hat are you doing? Get off me." In response to her demand, she was told, "[r]elax, you'll be OK."

16. One of her rapists then entered the room, and Ms. Williams asked him "[w]hat happened? Who was in here?" The rapist replied, "I don't know, I was downstairs in the kitchen." Ms. Williams retorted, "[y]ou have to know."

1 Who was in here?" The rapist falsely insisted he did not know who entered
2 the room with her the previous night.

3 17. Ms. Williams ran downstairs, and screamed "[w]ho was in that
4 room?" The only person left in the house was asleep on the couch, and he
5 jumped out of his sleep. Upon information and belief, the person sleeping on
6 the couch was not involved in the rapes but was involved in a group text
7 message session with the two rapists, which included coded references to
8 train raping Ms. Williams, including but not limited to "the conductor is
9 back" and "code is a toilet flush." Upon information and belief, when Ms.
10 Williams began screaming, one of the rapists fled the house. This rapist
11 later withdrew from Penn State while under investigation for his rape of Ms.
12 Williams, prior to facing a Title IX Decision Panel, thereby, avoiding
13 University adjudication.

14 18. Upon information and belief, Penn State knew or should have
15 known that the individual who was asleep on the couch stated that one of the
16 rapists came downstairs alone after being in the room with Ms. Williams, and
17 stated that they "put [Ms. Williams] upstairs to sleep it off." Then, one of
18 the rapists "got a fresh bottle of liquor" and returned to the room where
19 Ms. Williams was sent to "sleep it off."

20 19. Ms. Williams stated her intention to call the police.

21 20. One of the rapists (the one who was subjected to a Title IX
22 Hearing Panel, eventually, as discussed in detail *infra*) pleaded with Ms.
23 Williams to not call the police and offered to drive her back to her dorm.

24 21. Ms. Williams, disinclined to acquiesce to his request, did in
25 fact call the police.

26 22. The police arrived, and spoke with Ms. Williams. The police then
27 spoke to the rapist.

1 23. After speaking to the rapist, the police informed Ms. Williams
2 that the rapist stated "everything was consensual." This statement by the
3 police was Ms. Williams' first confirmation of both: 1) the fact that she
4 was indeed raped; and, 2) more than one person raped her. Shocked, Ms.
5 Williams exclaimed, "I didn't even know that [rapist] was involved. And
6 there was no consent to anything!"

7 24. The police officer determined that Ms. Williams was currently
8 under the influence of alcohol, and that she needed to go to the hospital.
9 An ambulance arrived and transported Ms. Williams to the hospital.

10 25. While waiting in the hospital waiting room, alone, Ms. Williams
11 became emotional. A nurse eventually performed a rape kit, which was
12 physically and emotionally painful for Ms. Williams. It was also determined
13 that Ms. Williams' blood alcohol content was 0.192 at approximately 9:00
14 a.m. Eventually, Ms. Williams went home.

15 26. Upon information and belief, including but not specifically
16 limited to the fact that Penn State receives notifications from local police
17 departments when one or more of its students are involved with suspected
18 criminal behavior, one or more Penn State Title IX mandatory reporters
19 became aware that two of its students were under investigation for rape of
20 one of its other students (Ms. Williams) in or around January 2017.

21 27. Upon information and belief, including but not specifically
22 limited to the fact that Ms. Williams was not contacted by the Title IX
23 office before she personally approached them, despite learning that that two
24 of its students were under investigation for rape of one of its other
25 students (Ms. Williams) in or around January 2017, Penn State violated Title
26 IX and its own policies and procedures because the mandatory reporter(s) who
27 learned of Ms. Williams' rape and the subsequent police investigation in or
28

1 around January 2017 did not alert Penn State's Title IX Coordinator of same,
2 or otherwise make contact with Ms. Williams.

3 28. Over the next few weeks, Ms. Williams had multiple meetings with
4 the police and with the district attorney. In the first meeting, Ms.
5 Williams was informed by the police that they had confirmed that two men
6 were involved in the rape, and that "they were stupid and snitched on each
7 other."

8 29. Upon information and belief, including but not limited to the
9 fact that Penn State receives notifications from local police departments
10 when one or more of its students are involved with suspected criminal
11 behavior, Penn State was aware of these findings that "they were stupid and
12 snitched on each other" prior to the Title IX Hearing at issue in this case.

13 30. Approximately one week later, Ms. Williams was in class, and
14 another student did a presentation on being raped at Penn State as a
15 freshman. That night, though she was not mentally able to do a presentation
16 on her own rape, Ms. Williams determined to do a presentation on the rape
17 culture at Penn State for her own project; she hoped to leverage her rape
18 culture presentation to help her recover emotionally from her experience.
19 The theme of her project was "you just have to keep going." While unable to
20 heal herself, it was cathartic to hopefully be able to help other people.

21 31. Ms. Williams continued to suffer mentally from being raped.
22 Later in the semester, upon information and belief, for about a week, she
23 depersonalized from herself. This was a terrifying experience that she could
24 not understand. Ms. Williams lost all sense of who she was and spent hours
25 in front of the mirror trying to "get [her]self back."

26 **Facts- Penn State is (Finally) Forced to Start its Title IX Investigation**

27 32. In the Fall 2017 semester, Ms. Williams learned that Penn State
28 had not begun an investigation into her rape, so she personally reached out

1 to the Title IX office on or about October 11, 2017, and her case was
2 assigned to Christopher Harris ("Mr. Harris").

3 33. To this day, when Ms. Williams sees a person who looks like one
4 of her rapists, she still freezes in place, her body still gets extremely
5 hot, and she still panics and seeks shelter. Seeing that rapist and/or
6 people who look like that rapist caused her to miss many classes due to
7 anxiety. Sometimes, Ms. Williams was mentally unable to leave her dorm, for
8 fear that that rapist or someone who looks like him would cross her path.

9 34. During Spring Break 2018, Ms. Williams was informed by the
10 police that the district attorney did not think they could win in court
11 (despite numerous confessions and a rape kit being positive for bilateral
12 vaginal erythema) and therefore, her rapists would not be prosecuted. Ms.
13 Williams was devastated and could not stop crying.

14 35. Even after making her report to PSU's Title IX Office in or
15 around October 2017, over six months elapsed before Penn State decided to
16 have a conduct conversation meeting with Ms. Williams' rapist.

17 **Facts- Ms. Williams Publicly Calls Out Penn State For Its Title IX Failures**

18 36. On or about April 5, 2018, Ms. Williams, frustrated with the
19 pace of Penn State's response and investigation, took to Twitter.

20 37. Specifically, Ms. Williams stated, "[w]hile we're on the topic,
21 let's also talk about how Penn State hides and undermines just how bad rape
22 on this campus actually is and how much rapists aren't condoned (sic) no
23 matter the amount of evidence!!!!"

24 38. Ms. Williams' social media postings garnered significant
25 negative attention for Penn State. Numerous individuals responded to Ms.
26 Williams directly offering her support.

27 39. Specifically, "AnkMan" stated, "I know how rapists are let off
28 easy. My gf was sexually assaulted almost a year ago (will be next week)

1 and... the school gave him a slap on the damn wrist...PSU doesn't take this shit
2 seriously and its (sic) concerning."

3 40. Upon information and belief, the exchange in the previous three
4 paragraphs was "liked" 807 times, and "retweeted" 247 times.

5 41. Ms. Williams also stated, "[h]is name is [rapist] and he's one
6 of the rapists that still walks freely on campus bc (sic) PSU keeps dragging
7 out the investigation after a year plus!!!...".

8 42. Upon information and belief, this message was "liked"
9 approximated 1,600 times and "retweeted" approximately 1,400 times.

10 43. Numerous people specifically replied, publicly, to Ms. Williams.
11 For instance, "kay", on or about April 6, 2018 stated, "...basically if you
12 are an athlete you can get accused of rape and literally nothing happen,
13 (sic) penn state (sic) got. (sic) A (sic) bad name for me now smh (sic)."

14 44. Ms. Williams' social media postings garnered significant
15 negative attention for Penn State. Numerous individuals responded to Ms.
16 Williams directly offering her support.

17 45. Upon information and belief, in total, these "tweets" containing
18 the eight previous paragraphs were "liked" approximately 29,700 times, and
19 "retweeted" approximately 18,600 times.

20 46. Ms. Williams' Twitter thread about Penn State's delay in
21 investigating her case, and their general poor handling of rape cases went
22 "viral" and upon information and belief, was viewed or shared or interacted
23 with close to a million times. Even Penn State faculty as well as the
24 student newspaper reached out to Ms. Williams offering to help.

25 47. Very shortly after Ms. Williams' Twitter feed went viral, on or
26 about April 19, 2018, Ms. Feldbaum contacted Ms. Williams, indicating that a
27 conduct conversation meeting was performed that day, and that one of her
28

1 rapists was being charged by Penn State. The other rapist resigned from Penn
2 State rather than face discipline.

3 **Facts- The Title IX Hearing**

4 48. Prior to the hearing (which occurred on or about May 18, 2018),
5 Ms. Williams was only given approximately five (5) hours to review the Title
6 IX investigation packet in preparation for the hearing. Penn State forbid
7 Ms. Williams from printing, saving, or downloading the Title IX
8 investigation packet for analysis and review.

9 49. Upon information and belief, the version of the investigative
10 packet made available to Ms. Williams prior to the hearing was, at some
11 point, heavily edited by Penn State (several dozen pages were added to the
12 packet at some point after the hearing).

13 50. Immediately prior to the hearing, wherein Ms. Williams was en
14 route, her vehicle broke down. As such, Ms. Williams called and requested a
15 continuance, but was discouraged against re-scheduling the hearing,
16 including but not limited to since, according to Ms. Feldbaum, rescheduling
17 so that Ms. Williams could appear in person rather than over the phone would
18 "give [the rapist] the upper hand."

19 51. In the hearing, Ms. Williams attempted to introduce evidence,
20 but was forbidden from presenting same because, according to the Decision
21 Panel ("DP"), no new evidence was permitted at the hearing.

22 52. When Ms. Williams attempted to provide testimony, she was
23 forbidden multiple times by the DP to limit her testimony to "yes" and "no"
24 answers, at the request of the rapist and/or his lawyer. Ms. Williams was
25 not informed that her rapist had the advice of a lawyer.

26 53. In the hearing, Ms. Williams was irrelevantly asked by the DP
27 "[h]ave you ever drank that much before?" Upon information and belief, this
28

1 question was designed to blame Ms. Williams for drinking alcohol as the
2 reason that she was raped.

3 54. In the hearing, the DP refused to consider Ms. Williams' rape
4 kit evidence because the panel members did not understand the rape kit
5 terminology. The hearing was not otherwise continued in order for the DP to
6 learn said terminology or consult an expert to determine, for instance, the
7 meaning of the word "erythema."

8 55. In the hearing, the rapist refused to answer any question,
9 beyond saying "no comment" including but not limited to questions regarding
10 the meaning behind his text messages of "the conductor is back" and "code is
11 a toilet flush" to other men in the house.

12 **Facts- The Title IX Decision and Appeals**

13 56. That day, DP determined that the rapist was "not responsible."
14 The basis for the decision that he was not responsible is that:

15 The DP examined the investigative packet very carefully, along
16 with any other information made available to it. Several
17 witnesses indicated that Ms. Williams had been drinking
18 considerably the night of the incident. Detective Clause noted
19 that the complainant was "visibly intoxicated" the morning the
20 police arrived at [rapist]'s apartment. Based on these accounts,
21 the DP concluded that by the time she arrived at [rapist]'s
22 apartment, the complainant was very intoxicated, possibly to the
23 point of incapacitation. The DP also observed that, with the
24 exception of [REDACTED], none of the people in [rapist]'s
25 apartment had been with the complainant earlier in the evening.
26 Consequently, the DP could not conclude that [rapist] could have
27 known how much Ms. Williams had drunk. While in [rapist]'s
28 apartment, the complainant, while very intoxicated, is reported
not to require assistance while walking, did not seem to have
difficulty holding a conversation, and was texting while in
[rapist]'s bedroom. Hence, the DP could not conclude that there
was a preponderance of evidence that [rapist] reasonably should
have known that Ms. Williams was incapacitated. Similarly, the
DP could not determine that there was a preponderance of
evidence that [rapist] did not have consent for sexual
intercourse.

57. The DP also noted, "the [DP] suggests to the Office of Student
Conduct that [rapist] might be charged with Code of Conduct violation 02.15-

1 Sexual Exploitation." Upon information and belief, Penn State did not
2 properly investigate this recommendation from the DP.

3 58. Despite the DP's findings, the investigative packet contained
4 evidence that [the rapist] had to pour her alcohol "...because [Ms. Williams]
5 was too drunk to pour it herself and was about to throw up."

6 59. Despite the DP's findings, the investigative packet contained
7 evidence that at approximately 9:00 a.m. the next morning, her Blood Alcohol
8 Content was 0.192.

9 60. Despite the DP's findings, the investigative packet contained
10 evidence that the police found multiple use condoms laying around the room
11 where the rape occurred.

12 61. Despite the DP's findings, the investigative packet contained
13 evidence that Ms. Williams was advised by the female friend who dropped her
14 off at her dorm after the S.M.A.R.T. social that she was so intoxicated that
15 she "should lock her door and go to sleep", and that when this friend was
16 asked by Mr. Harris why she told Ms. Williams to lock her door and go to
17 sleep, she said that it was because she "could tell how intoxicated [Ms.
18 Williams] was."

19 62. Despite the DP's findings, the investigative packet contained
20 evidence that Ms. Williams was asked by one of the female students whose
21 apartment the S.M.A.R.T. social was to stay at the apartment because she was
22 so intoxicated and, that she "wasn't sure if [Ms. Williams] could make it
23 home and was worried for her safety."

24 63. Ms. Williams, on multiple occasions after the May 18, 2018
25 hearing, requested information about the outcome of her rapist's case
26 (including but not limited to her appeal), and was denied information by
27 Penn State, including but not limited to being denied such information by
28

1 Ms. Feldbaum, who refused to substantively answer many of Ms. Williams'
2 questions.

3 64. Penn State continued to deny Ms. Williams' requests on multiple
4 occasions. Penn State did not respond to Ms. Williams directly, but Ms.
5 Feldbaum eventually informed Ms. Williams that Ms. Williams' questions were
6 more appropriate for the DP.

7 65. Ms. Williams then asked to speak with the DP, and was denied
8 that request.

9 **Facts- Mr. Prawdzik and ENGLISH 202A**

10 66. On or about August 26, 2019, Ms. Williams began classes in Penn
11 State's English Course Number 202A, taught by Mr. Prawdzik.

12 67. In part due to being a rape survivor, Ms. Williams utilized Penn
13 State's mental health treatment services to treat for emotional distress
14 related to the rape, and Penn State's response thereto.

15 68. During this time, Ms. Williams specifically suffered from
16 depression and anxiety, and occasionally suffered from an inability to
17 function, including but not limited to, going to class.

18 69. As a Black woman, Ms. Williams chose racism as her topic for a
19 semester long English project.

20 70. When Mr. Prawdzik learned of Ms. Williams' topic choice, he held
21 her back after class and tried to convince Ms. William's that minorities are
22 partly at fault for the systematic racism that they experience.

23 71. Ms. Williams specifically disagreed with Mr. Prawdzik and he
24 engaged her in a debate for approximately one hour, before Ms. Williams
25 stated "you are not changing my mind" and left the meeting.

26 72. Upon information and belief, Mr. Prawdzik did not meet with
27 other students who did not pick racism regarding their respective chosen
28

1 topic for this assignment, and/or were not Black, in order to try to
2 convince them to change their topics.

3 73. Ms. Williams was appalled, humiliated, and ultimately refused to
4 change the topic of this assignment.

5 74. Ms. Williams' experience with professors who she suspected to be
6 racially biased, including but not limited to Mr. Prawdzik, contributed to
7 her anxiety and caused her to become extremely anxious about attending
8 English class, and she missed a number of classes due to her anxiety.

9 75. Ms. Williams thereafter missed some of Mr. Prawdzik's English
10 classes.

11 76. On or about October 11, 2019, Ms. Williams emailed Mr. Prawdzik
12 informing him that she had missed class due to health reasons, and that she
13 would supply excuses.

14 77. On or about October 14, 2019, Mr. Prawdzik approached Ms.
15 Williams, in front of the entire class, and loudly requested her health care
16 information and medical excuses and stated he would be checking to make sure
17 her documentation was "legit."

18 78. Ms. Williams, who wanted to maintain her private medical
19 information separate and apart from her classmates, requested that Mr.
20 Prawdzik communicate with her privately about these issues, preferably, via
21 email; since she initiated this private topic via private communication
22 methods, she expected his response to also be private, not in front of the
23 whole class.

24 79. Mr. Prawdzik walked away from Ms. Williams and about five
25 minutes later he returned to Ms. Williams and loudly asked if she "want[ed]
26 to talk about this inside of class or outside of class."

27 80. Ms. Williams was confused, and responded "I guess outside."
28

1 81. Mr. Prawdzik stormed out of the room, and Ms. Williams, still
2 confused, followed him into the hallway.

3 82. Ms. Williams asked Mr. Prawdzik (paraphrased) "what did I do?
4 What are you mad about? All I asked is if we could continue communicating
5 about my private matters through email, like I already initiated through
6 email."

7 83. Mr. Prawdzik replied (paraphrased) "you have been a class
8 disruption" and told her that she "would not be in the class anymore."

9 84. Earlier in the semester, Mr. Prawdzik emailed Ms. Williams,
10 stating that she was "doing good" and "making good progress" in the class,
11 with no mention of being a class disruption.

12 85. At the conclusion of the conversation, Ms. Williams went back
13 into the classroom, and asked why she had to leave since she didn't do
14 anything wrong.

15 86. Mr. Prawdzik then said he was calling the police.

16 87. Mr. Prawdzik then picked up the classroom's telephone receiver.

17 88. Ms. Williams then said Mr. Prawdzik was acting in a racist
18 fashion, and that she would notify the Education Equity Office (of Penn
19 State) about his inappropriate actions, and then she left.

20 89. Mr. Prawdzik called out after her "good!"

21 90. Later that day, Ms. Williams wrote a report in Dr. Whitehurst's
22 assistant's office about Mr. Prawdzik's racial discrimination and then
23 submitted it online to Penn State (which eventually ended up with the
24 Affirmative Action office).

25 91. Mr. Prawdzik falsely asserted to the Affirmative Action Office
26 that Ms. Williams had missed more classes than she actually did, and then
27 stated that because she reported him to the Affirmative Action office, that
28 he would not grade her work, he would not give her an alternative to

1 complete the course, that she would receive an "F" in his class, and that
2 the grade was final.

3 92. Upon information and belief, the Affirmative Action Office
4 instructed Mr. Prawdzik to allow Ms. Williams to complete the course, and
5 upon Mr. Prawdzik's refusal, Penn State did not take appropriate further
6 action to effectively remediate Mr. Prawdzik's admitted, open, and obvious
7 retaliation.

8 93. While waiting for a meeting at the Office of Student Conduct, a
9 front office worker, Hilda Sparrow sat down next to Ms. Williams.

10 94. Ms. Sparrow placed her hand on Ms. Williams' leg, and,
11 unsolicited, stated, "Kayla... You're a smart, pretty girl. I think your
12 majors are perfect for you." Ms. Sparrow then paused, and continued, "Why
13 don't you just forget about what happened to you?"

14 95. Ms. Williams felt as if Ms. Sparrow was warning Ms. Williams
15 that as long as Ms. Williams insisted on answers to her questions regarding
16 the Title IX hearings and complaining about racism, that Ms. Williams would
17 have problems at school, and that her issues would stop as soon as Ms.
18 Williams stopped talking about Title IX and racism.

19 96. Ms. Williams replied, "[f]orget? I hate even walking into the
20 OSC office because of everything that has occurred and it just mentally
21 messes with me."

22 97. Ms. Sparrow responded, "I know, I see it in your face every time
23 you walk in there."

24 98. Ms. Williams still has an "F" on her transcript, and Penn State
25 has not acted to remove the "F" grade in a manner that does not bring
26 financial and academic harm to Ms. Williams (via Penn State offering a late
27 add/drop and then re-taking the class, which would be indicated on her
28

1 transcript permanently while also requiring Ms. Williams to pay for the
2 course again).

3 **Facts- Ms. Yarwood and PSYCH 425**

4 99. On or about January 13, 2020 Ms. Williams started classes in
5 Penn State's Psychology Course Number 425 taught by Ms. Yarwood.

6 100. This class focused on "Human Emotions." Ms. Williams was excited
7 for this class, because since her rape, her emotional state was broken.

8 101. Ms. Williams took two quizzes on or about January 29, 2020.

9 102. Quizzes are graded by a computer, wherein Ms. Yarwood entered
10 the correct answers into a computer program, which then compared the answers
11 supplied by Ms. Yarwood to the answers submitted by the student to produce a
12 grade.

13 103. Upon information and belief, Ms. Yarwood mistakenly entered an
14 answer incorrectly on each of these quizzes, which resulted in the class
15 getting those answers marked incorrect and losing points for same.

16 104. On one of the quiz questions (on both quizzes), Ms. Williams
17 answered a particular multiple-choice question wrong.

18 105. Ms. Williams asked her friends to compare answers so she could
19 study for future exams, and discovered that her classmates (names withheld
20 for privacy purposes but available in discovery pursuant to a protective and
21 confidentiality order), two white students, answered the same multiple
22 choice answer as Ms. Williams did, but those white students had been awarded
23 the points as if they answered the question correctly.

24 106. Ms. Williams contacted Ms. Yarwood via e-mail about the
25 discrepancy in grading.

26 107. Ms. Yarwood responded by explaining why she was wrong.
27
28

1 108. Ms. Williams responded that it was unfair that she would not get
2 the credit when other students were given credit for the same wrong answer
3 to the same question.

4 109. Ms. Williams then met with Ms. Yarwood about the quizzes.

5 110. Ms. Williams said (paraphrased) "I understand why it is wrong,
6 but it is unfair and biased to let certain students get credit for the wrong
7 answer and not others."

8 111. Ms. Yarwood responded that the credit had been removed from the
9 white students, and she also told Ms. Williams that she could ask her
10 friends for that confirmation email indicating that the white students'
11 credit had been removed.

12 112. Ms. Williams asked the white students if the credit was removed.

13 113. They replied that the credit was initially removed, but then,
14 subsequently given back, resulting in their receiving credit for getting the
15 wrong answer.

16 114. Ms. Williams confirmed that she was still not given credit for
17 the same answer, even though it is believed to have been given to the white
18 classmates (names withheld for privacy purposes but available in discovery
19 pursuant to a protective and confidentiality order).

20 115. Following the next class, Ms. Williams approached Ms. Yarwood
21 after class to discuss the quiz grading discrepancy and a white student in
22 front of Ms. Williams asked Ms. Yarwood why their grade was inflated.

23 116. The white student said that their "backpack Number 2" assignment
24 had been made into extra credit.

25 117. Upon hearing same, Ms. Williams exclaimed "my backpack Number 2
26 assignment was not extra credit."

27 118. Ms. Yarwood immediately replied "I just changed it."
28

1 119. Ms. Williams just before class checked her grades, and the
2 backpack Number 2 assignment was not extra credit at that time. Ms. Williams
3 checked again after Ms. Yarwood indicated that she "just changed it" and
4 despite Ms. Yarwood's statement, the assignment was not listed as extra
5 credit for Ms. Williams.

6 120. Ms. Williams then emailed Ms. Yarwood regarding the quizzes and
7 the backpack Number 2 assignment.

8 a. Ms. Williams asked, "[y]ou stated during our meeting that you
9 took the points back that were freely given to some but not
10 others on quiz 1, but I have since discovered, with proof, that
11 you actually gave everyone an additional 0.5 points on quiz 1,
12 but not me. Can you explain that?"

13 b. Ms. Williams stated, "I should have been in the group that got
14 the additional points for quiz 1. You are refusing to give me
15 the same extra points that you gave others. Can you explain to
16 me the reason behind this?"

17 c. Ms. Williams stated, "[c]an you explain to me how/why I have
18 proof that PB#2 showing up as extra credit in the grade book for
19 the class, but not me? (I have proof.. before you changed it
20 after I overheard the girl bring it up to you after class)."

21 d. Ms. Williams stated, "[c]an you inform me how/why the class
22 received an additional 0.5 on quiz 2 also, but I did not? (I
23 have proof)."

24 121. Ms. Yarwood responded that "I discussed your concerns about bias
25 and unfairness with [the head of psychology department]. I will not be
26 responding to [your questions regarding bias and unfairness]," and that she
27 "could do a grade appeal at the end of the semester."
28

1 122. Throughout the rest of the class, Ms. Yarwood would use examples
2 in class about injustice, angry emotions and stare at Ms. Williams and smirk
3 as she detailed these examples.

4 123. On or about January 20, 2020, Ms. Williams contracted severe
5 bronchitis, and was incapacitated by same for approximately one week. Ms.
6 Williams went to the hospital, and had a University wide doctor's note
7 excusing her from all University activities.

8 124. Due to this note, Ms. Yarwood allowed Ms. Williams to make up an
9 assignment. Ms. Williams wrote down the grading guidelines on the assignment
10 through the Backpack system, and followed them, as she had done on her
11 previous assignments.

12 125. Ms. Yarwood did not use the same grading guidelines as published
13 by Backpack that she used with all the other students in the class, and
14 instead created a special grading system that was harsher, and upon
15 information and belief, only used for Ms. Williams' assignment.

16 126. Ms. Williams emailed Ms. Yarwood, "[y]ou created an entirely
17 stricter rubric than the PB websites use to grade assignments and that no
18 other student has been graded off of. Please give me back the points you
19 unfairly [docked]."

20 127. Ms. Yarwood responded that she was not giving Ms. Williams any
21 points back, was not answering any questions about the assignment, and to
22 take any further concerns to the head of the psychology department.

23 128. Ms. Yarwood continued to smirk at Ms. Williams during class at
24 the same time as discussion emotional topics. Ms. Williams eventually broke
25 down and stated, "[y]ou can keep smirking and messing with me if you want.
26 You can answer my questions in court." Ms. Williams then left class and
27 dropped the course.
28

1 129. After dropping the course, Ms. Williams emailed Ms. Yarwood and
2 the head of the Psychology department and asked for the rubric used to grade
3 her makeup work that Ms. Yarwood made up just for Ms. Williams, that was
4 harsher than the grading of the rest of the class. Ms. Williams received no
5 response, until she emailed twice more. The psychology department head
6 finally responded that no one would be sending Ms. Williams the grading
7 rubric.

8 **Facts - Ms. Williams is Suspended by Penn State**

9 130. On or about January 21, 2020, Ms. Williams was suffering from
10 viral bronchitis and went to the Penn State student health service.

11 131. On or about January 22, 2020, Ms. Williams was called to a Penn
12 State-scheduled conduct conversation meeting regarding her alleged
13 harassment of a former roommate, and an alleged assault against a "ride-
14 share" driver for January 25, 2020.

15 132. Ms. Williams, suffering from bronchitis, did not learn of the
16 meeting until after the time for same had passed.

17 133. Ms. Williams did have a University medical excuse for all
18 University activities, which included the date and time of her meeting for
19 the conduct conversation meeting.

20 134. As an accused student, Ms. Williams had the right to participate
21 in the conduct conversation meeting prior to a finding of probable cause
22 being levied against her.

23 135. Though accused students are warned that failure to attend the
24 conduct conversation meeting would result in the process continuing without
25 the input of the accused student, Ms. Williams was medically excused from
26 this meeting. Based on this medical excuse, Ms. Williams requested that her
27 conduct conversation meeting be rescheduled.

1 136. On several occasions, including but not limited to on or about
2 February 13, 2020, Ms. Williams was denied a conduct conversation meeting
3 despite her medical excuse covering the date of the previously scheduled and
4 medically excused conduct conversation meeting by Ms. Langford.

5 137. On several occasions, including but not limited to on or about
6 February 13, 16, 17, 20, and 21, 2020, Ms. Williams was denied the specific
7 information that was alleged to be a violation of student conduct, and
8 ultimately did not have five-days-notice of the specific information from
9 incident reports which formed the basis for her misconduct charges, in
10 violation of Penn State policies and procedures (in part because Ms.
11 Williams was denied her conduct conversation meeting).

12 138. Ms. Williams, shocked that Penn State would ignore a medical
13 excuse, reiterated that she did not get the benefit of a conduct
14 conversation meeting and per Penn State's policies and procedures, missed
15 same due to a medical reason and reported the Office of Student Conduct to
16 the Affirmative Action office as a result.

17 139. Penn State allowed Ms. Williams to contest the charges, but
18 repeatedly refused to allow Ms. Williams to engage in a conduct conversation
19 meeting as was her right under the policies and procedures of Penn State.

20 140. On February 19, 2020, Ms. Williams filed a lawsuit against Penn
21 State University for violations of, *inter alia*, due process, Title VI, and,
22 Title IX.

23 141. On February 20, 2020, Penn State was served with the lawsuit.

24 142. On February 20, 2020, numerous news articles were published
25 regarding the lawsuit Ms. Williams filed against Penn State.

26 143. On February 21, 2020, Penn State held a hearing to determine
27 whether Ms. Williams was responsible for harassment of her former roommate,
28 and/or assaulting a "ride share" driver.

1 144. The morning of the hearing, in direct violation of Penn State
2 policies and procedures which guarantee two-days-notice of any witness
3 statements to be used in the hearing, the Office of Student Conduct provided
4 a written statement from one of the accusing witnesses to Ms. Williams and
5 the DP.

6 145. In the hearing, Ms. Williams was the only witness to appear;
7 neither the roommate who alleged that Ms. Williams harassed her, nor the
8 "ride-share" driver who alleged that Ms. Williams assaulted him appeared at
9 the hearing to provide testimony or answer questions, depriving Ms. Williams
10 the ability to ask them questions; but Penn State found those non-present
11 and unchallenged paper witnesses to be credible.

12 146. Ms. Williams' advisor was forbidden by the DP to speak at all
13 with Ms. Williams during the hearing (unless there was a break in the
14 proceedings, though no such breaks were scheduled or otherwise occurred
15 during the hearing).

16 147. In the hearing, Ms. Williams was admonished for her presentation
17 because according to the DP, "this [hearing] is only about two" charges, and
18 Ms. Williams, who had repeatedly asked which parts of the incident report
19 the basis for the charges were, had to do a line by line rebuttal.

20 148. The DP forced Ms. Williams to discuss (in the nature of
21 speculation) as to why various persons took various actions or had various
22 understandings, despite that Ms. Williams would have no way of knowing that
23 information, then used Ms. Williams' incoherency during part of her hearing,
24 which was based in part on not knowing how to answer those questions that
25 were improperly directed at her forcing her into speculation about topics
26 for which she had no personal knowledge such as absent witnesses' state of
27 mind.
28

1 149. Ms. Williams protested the conduct of the hearing as a violation
2 of the Penn State policies and procedures on the basis of never having had
3 the opportunity to engage in a conduct conversation meeting despite her
4 medical excuse.

5 150. Ms. Williams protested perceived bias against her during the
6 hearing (based on how she was treated as a victim in her Title IX case in
7 2018 as previously described) and informed the DP that she had filed a
8 federal lawsuit against Penn State because of her ongoing problems with
9 getting anyone in the administration to take her concerns seriously.

10 151. Later that same day, Ms. Williams was informed by Lauren
11 Langford that the DP concluded to suspend Ms. Williams.

12 152. On or about February 28, 2020, the DP released its rationale for
13 its decision to suspend Ms. Williams.

14 153. The DP made a specific finding that the former roommate who did
15 not attend the hearing, and thus, could not be questioned, "appeared to be
16 traumatized" and was more credible than Ms. Williams.

17 154. The DP made a specific finding that the "ride share" driver who
18 also did not attend the hearing, and thus, could not be questioned,
19 "appeared to be traumatized" and was more credible than Ms. Williams.

20 155. The DP made a specific finding that the former roommate who did
21 not attend the hearing's mother, who also did not attend the hearing (or
22 even provide a witness statement), and thus, could not be questioned, "would
23 not have flown here from Colorado" unless her daughter was telling the
24 truth.

25 156. The DP made specific findings unrelated to the issues before
26 them, including but not limited to:

- 27 a. Ms. Williams' challenge as to the authenticity and completeness
28 of evidence presented in a court proceeding;

- b. A mistake about the contents of the packet provided to her when she arrived at the hearing (including the just that morning addition which violated the two days' notice rule);
- c. An incident about dirty dishes; and,
- d. Whether or not Ms. Williams and her roommates had a chore schedule.

157. The DP made a specific finding that since Ms. Williams "conceded that [the ride share driver] wanted to cancel the ride" because he had to wait for her outside of Wal-Mart, that he could not have been aggressive with Ms. Williams. Not only is this a failure of logic, but not what was actually said in the hearing, wherein Ms. Williams never "conceded" same.

158. Ms. Williams appealed the DP's decision on the (in part) bases of:

- a. Deprivation of "stated procedures of PSU when, [Ms. Williams] was charged without the opportunity to have a conduct conversation with a case manager, when [Ms. Williams] had a University Wide Excuse from all activities for health reasons and was unable to attend the meeting with the case manager";
- b. Deprivation of "stated procedures of PSU, when despite [Ms. Williams'] University Wide Excuse from all activities for health reasons, the Office of Student Conduct refused to allow [Ms. Williams] to meet with the case manager, only permitted me to contest [Ms. Williams'] charges and have a hearing";
- c. Deprivation of "stated procedures of PSU, when due to their failure to attend the hearing, [Ms. Williams] was unable to ask questions of Amanda Beck, Dennis Shea, and John Petrulich, who were witnesses in the hearing through their written testimony.";

1 d. Deprivation of "stated procedures of PSU, when John Petriluch's
2 statement was included in the information packet for the hearing
3 board on the morning of the hearing, and [Ms. Williams] did not
4 have at least two days to review it.";

5 e. Deprivation of "[Ms. Williams'] rights, because [Ms. Williams]
6 was unable to cross examine Amanda Beck's written statement,
7 whom the board determined, despite her absence at the hearing
8 and the lack of cross examination, to be credible.";

9 f. Deprivation of "[Ms. Williams'] rights, because [Ms. Williams]
10 was unable to cross examine the Uber Driver's written statement,
11 whom the board determined, despite his absence at the hearing
12 and the lack of cross examination, to be credible.";

13 g. Deprivation of "[Ms. Williams'] rights, because [Ms. Williams]
14 was unable to cross examine Dennis Shea's written statement,
15 whom the board determined, despite his absence at the hearing
16 and the lack of cross examination, to be credible.";

17 h. Evaluation of "various irrelevant incidents outside of the
18 charges, which denied [Ms. Williams] the investigative and
19 procedural protections of PSU policies related to the conduct
20 process.";

21 i. "The Board made findings that are completely unsupported by the
22 evidence."; and,

23 j. "The sanction of suspension is not justified by the nature of
24 the violation."

25 159. In preparing for the appeal, Penn State refused to give Ms.
26 Williams a copy of the hearing recording.

27 160. In preparing for the appeal, Penn State refused to allow Ms.
28 Williams to record the recording of the hearing.

161. On March 19, 2020, Penn State, through Ms. Gaudelius, denied her appeal, and suspended Ms. Williams.

162. These causes of action follow:

COUNT I

Title VI - Retaliation

Against Mr. Prawdzik and Penn State

163. All other paragraphs are incorporated.

164. Penn State receives federal funding and is therefore a covered entity under Title VI and prohibited from engaging in retaliation on the basis of protected activity on the basis of race.

165. Mr. Prawdzik is a "person" within the meaning of the anti-retaliation provisions of Title VI.

166. On or about October 14, 2019, Ms. Williams engaged in Protected Activity when she, *inter alia*, reported Mr. Prawdzik, to the Penn State Affirmative Action office, accusing him of racial bias.

167. On or about December 19, 2019 Mr. Prawdzik stated that, *inter alia*, Ms. Williams would receive an "F" in his course, and he would not evaluate any of her work, specifically because she reported him to Penn State's Affirmative Action Office accusing him of racial bias.

168. Penn State was aware of Mr. Prawdzik's statement, yet failed to remediate his retaliatory intent or the effect of his retaliatory actions, whereby, Ms. Williams' transcript continues to reflect that she failed her English class with Mr. Prawdzik.

169. Ms. Williams was injured and suffered damages which were directly and proximately caused by Mr. Prawdzik's and Penn State's acts and omissions as described in this Count.

COUNT II (in the alternative to Count III)

Procedural Due Process (Deviation from Procedure)

Against Penn State, and Ms. Langford, Ms. Feldbaum, Ms. Gaudelius

170. All other paragraphs are incorporated, except those contained in Count III.

171. The Fourteenth Amendment provides that no person shall be deprived of life liberty or property without due process of law.

172. This guarantee encompasses both a substantive and procedural component.

173. The procedural due process clause protects individual liberty against, *inter alia*, certain government actions taken upon unfair deviation from the mechanism to prevent due process violations.

174. Ms. Williams has a protected property interest in continuing her degree studies at Penn State.

175. Penn State established and published student discipline policies and procedures including but not limited to the a pre-deprivation conduct conversation meeting, during which an accused student meets with an Office of Student Conduct case manager to discuss the alleged actions which are being considered to be potential violations of student conduct and for the accused student to give her side of the story, prior to the Office of Student Conduct deciding to charge that student with misconduct.

176. Penn State, through its employees Ms. Langford (the student conduct case manager), and Ms. Feldbaum (one of Ms. Langford's supervisor at Penn State) acting under the color of state law via their authority derived from their positions at Penn State, unfairly deviated from its own policy when, despite Ms. Williams possessing a valid University wide medical excuse which covered the day of her scheduled conduct conversation meeting and making numerous requests for Ms. Langford to reschedule the meeting, followed by Ms. Feldbaum telling Ms. Williams her conduct conversation meeting would not be rescheduled, these defendants, skipped a step in Penn

1 State's own discipline process and deprived Ms. Williams of her right to
2 provide information to the Office of Student conduct and obtain information
3 from the Office of Student Conduct regarding the specifics of the alleged
4 actions and how they potentially violate Student Conduct through that
5 meeting, prior to Ms. Williams being charged.

6 177. Ms. Langford's and Ms. Feldbaum's unfair deviation from this
7 policy was protested by Ms. Williams before, during, and (in an appeal)
8 after her misconduct hearing, including but not limited to Ms. Williams, on
9 numerous occasions, stating that because she did not have a conduct
10 conversation meeting, she was unaware of what specific actions were being
11 considered to be violations of the Code of Conduct.

12 178. Penn State affirmed Ms. Langford's initial unfair deviation from
13 this policy when, prior to the hearing, one of her supervisors, Ms.
14 Feldbaum, with specific knowledge of Ms. Langford's deviation from Penn
15 State's policy with regard to pre-deprivation conduct conversation meetings,
16 refused to reschedule the conduct conversation meeting.

17 179. Penn State again affirmed the unfair deviation from this policy
18 when, during the hearing, the DP, with specific knowledge of Ms. Langford's
19 and Ms. Feldbaum's deviation from Penn State's policy with regard to pre-
20 deprivation conduct conversation meetings, continued the hearing despite the
21 lack of a conduct conference meeting.

22 180. Penn State, through Ms. Gaudelius, ultimately affirmed the
23 deviation by denying Ms. Williams' appeal and suspending Ms. Williams,
24 without permitting her to have a pre-deprivation conduct conversation
25 meeting.

26 181. As a direct and proximate result of these deviations from Penn
27 State's policy, Ms. Williams was denied the due process protections of Penn
28 State's policies and procedures, specifically including but not limited to

1 the opportunity to tell her side of the story and offer evidence to the
2 Office of Student Conduct outside of the adversarial process of a conduct
3 hearing and before she was charged with misconduct.

4 182. Upon information and belief, Penn State also established and
5 published student discipline policies and procedures providing an accused
6 student with five-days-notice of the specific actions which violated the
7 student conduct code.

8 183. Penn State unfairly deviated from its own policy when, despite
9 the fact that Ms. Williams requested from Ms. Langford, the specific
10 information from the incident reports which were being considered potential
11 violations of the conduct code, Ms. Williams was denied the specific
12 information that was alleged to be a violation of student conduct, including
13 but not limited to on February 13, 16, 17, 20, and 21, 2020, by Ms.
14 Langford, and affirmed by Ms. Feldbaum.

15 184. As a direct and proximate result of Ms. Langford's deviations
16 and Ms. Feldbaum's affirmation of deviations, Ms. Williams did not have
17 five-days-notice of the specific information from incident reports which
18 formed the basis for her misconduct charges, in violation of Penn State
19 policies and procedures (in part because Ms. Williams was denied her conduct
20 conversation meeting).

21 185. As a direct and proximate result of Penn State's deviation from
22 the five-days-notice policy, Ms. Williams was unaware of which parts of the
23 incident reports (one of which she only received that morning) depriving her
24 of proper notice and opportunity to prepare a response to the charges, and
25 required her to, in the hearing, respond line by line to the incident
26 reports (for which she was admonished by the DP for going beyond "only the
27 two" charges.

1 186. Penn State affirmed the unfair deviation from this policy when,
2 during the hearing, the DP, with specific knowledge of Ms. Langford's and
3 Ms. Feldbaum's deviation from Penn State's policy with regard to five-days-
4 notice of the specific information forming the basis for misconduct charges,
5 continued the hearing despite the lack of required notice.

6 187. Penn State, through Ms. Gaudelius, ultimately affirmed the
7 deviation by denying Ms. Williams' appeal and suspending Ms. Williams, where
8 she was forced to defend herself at a hearing without the required five-
9 days-notice of the specific actions providing the bases for her charges.

10 188. Upon information and belief, Penn State also established and
11 published student discipline policies and procedures providing the
12 opportunity for an accused student to consult with their advisor quietly or
13 in writing during a session, or outside during breaks.

14 189. Penn State unfairly deviated from this policy and procedure when
15 in Ms. Williams' hearing, her advisor was forbidden from quietly speaking to
16 her at all during the hearing, and only being permitted to do so during
17 breaks.

18 190. This unfair deviation from policy directly and proximately
19 caused Ms. Williams to be denied her right to speak with her advisor during
20 the hearing, depriving her of her due process rights under Penn State's
21 policy.

22 191. Penn State, through Ms. Gaudelius, ultimately affirmed the
23 deviation by denying Ms. Williams' appeal and suspending Ms. Williams, where
24 she was prevented from quietly communicating with her advisor during the
25 hearing.

26 192. Upon information and belief, Penn State also established and
27 published student discipline policies and procedures providing the
28

1 opportunity for a student accused of misconduct to question her accusers in
2 a misconduct hearing.

3 193. Penn State unfairly deviated from its own policy when, despite
4 the fact that no accusers testified against Ms. Williams before the hearing
5 panel, the hearing proceeded without their testimony preventing Ms. Williams
6 the opportunity to cross examine them.

7 194. This unfair deviation from policy directly and proximately
8 caused Ms. Williams to be unable to challenge the credibility of the
9 witnesses used against her and, nonetheless, the hearing panel made
10 credibility assessments of accusing witnesses who were not present before it
11 or otherwise subject to cross examination in any way, and found those non-
12 present and unchallenged accusers to be credible, and suspended Ms. Williams
13 purportedly on the basis of those credibility determinations.

14 195. Penn State, through Ms. Gaudelius, ultimately affirmed the
15 deviation by denying Ms. Williams' appeal and suspended Ms. Williams without
16 permitting Ms. Williams the opportunity to in any way question the accusing
17 witnesses against her.

18 196. Upon information and belief, Penn State also established and
19 published student discipline policies and procedures providing two-days-
20 notice of any witness statements to be used in a conduct hearing.

21 197. Penn State unfairly deviated from its own policy when, despite
22 the fact that an accusing witness's statement was only provided the morning
23 of the hearing, it was used against Ms. Williams in the hearing to find her
24 responsible for misconduct.

25 198. This unfair deviation from policy directly and proximately
26 caused Ms. Williams to be deprived of a meaningful opportunity to review the
27 witness statement, prepare for the hearing, and/or utilize her advisor.
28

1 199. Penn State, through Ms. Gaudelius, ultimately affirmed the
2 deviation by denying Ms. Williams' appeal and suspended Ms. Williams without
3 permitting Ms. Williams the required two days' notice of an accusing
4 witness' written statement being presented in the hearing.

5 200. Upon information and belief, Ms. Williams' suspension, even if
6 based on procedures that did not violate due process as discussed *supra*, was
7 outside the range of punishments applicable to the actions with which Ms.
8 Williams was accused and thereby also violated her due process rights.

9 201. Ms. Williams was injured and suffered damages via a two-semester
10 suspension which were directly and proximately caused by Penn State's acts
11 and omissions as described in this Count.

12 **COUNT III (In the alternative to Count II)**

13 **Constitutionally Deficient Policies**

14 ***Against Penn State***

15 202. All other paragraphs are incorporated, except those contained in
16 Count II.

17 203. The Fourteenth Amendment provides that no person shall be
18 deprived of life liberty or property without due process of law.

19 204. This guarantee encompasses both a substantive and procedural
20 component.

21 205. The procedural due process clause protects individual liberty
22 against, *inter alia*, certain government actions taken without a sufficient
23 mechanism in connection to that deprivation that satisfies the requirements
24 of due process.

25 206. Ms. Williams has a protected property interest in continuing her
26 degree studies at Penn State.

27 207. Penn State through one or more of its decisionmakers,
28 established and published student discipline policies and procedures which

1 deficiently permit a hearing panel to make credibility assessments of
2 accusing witnesses who are not present before it or otherwise subject to
3 questioned by the accused student in any way.

4 208. The hearing panel made credibility assessments of accusing
5 witnesses who were not present before the panel for testimony or questioning
6 by the accused student, Ms. Williams.

7 209. The deficient policies allowing a hearing panel to make
8 credibility assessments of accusing witnesses who do not appear before it,
9 and who cannot be questioned or cross examined, directly and proximately
10 prevented Ms. Williams from challenging her non-present accusers'
11 credibility; nonetheless, the hearing panel found non-present non-challenged
12 witnesses as credible, leading to Ms. Williams' two semester suspension.

13 210. Penn State, through one or more of its decisionmakers, also
14 established and published student discipline policies and procedures which
15 deficiently failed to establish a proper procedure to account for reasonable
16 excuses for an accused student's missing a scheduled conduct conversation
17 meeting including, *inter alia*, the rescheduling of an accused student's
18 conduct conversation meeting in light of a university excused medical issue.

19 211. As a direct and proximate result of Penn State's deficient
20 policy and procedure, i.e., failing to establish a proper procedure to
21 account for reasonable excuses for an accused student missing a scheduled
22 conduct conversation meeting, Ms. Williams' conduct conversation meeting was
23 skipped by the University thereby depriving Ms. Williams of the procedural
24 opportunity to tell her side of the story and offer evidence to the Office
25 of Student Conduct outside of the adversarial process of a conduct hearing
26 and before being charged with misconduct in the first instance.

1 assistance, on the bases of Ms. Yarwood correcting the mistake for similarly
2 situated non-Black students, and lying to Ms. Williams about having fixed
3 the mistake (awarding points to similarly situated white students for
4 missing the same questions as Ms. Williams), thereby denying the benefits
5 of, and subjecting Ms. Williams to discrimination.

6 221. Ms. Yarwood deflated the value of Ms. Williams' psychology
7 homework by refusing to designate that assignment as extra credit, and also
8 by using a stricter rubric with another one of Ms. Williams' homework
9 assignments, which, upon information and belief, was not the same rubric Ms.
10 Yarwood used to evaluate the similarly situated non-Black classmates of Ms.
11 Williams.

12 222. Causation can be inferred that said refusal was racially
13 discriminatory under "any program or activity" receiving Federal financial
14 assistance, on the bases of Ms. Yarwood designating similarly situated non-
15 Black students' homework as extra credit for them, but not for Ms. Williams,
16 and lying to Ms. Williams about the adjustment of Ms. Williams' homework to
17 score it as extra credit, as she had done with similarly situated non-Black
18 students' same homework assignment.

19 223. Penn State was aware of Ms. Yarwood's discriminatory grading yet
20 failed to remediate her discriminatory intent or the effect of her
21 discriminatory actions, and Ms. Williams, with no other recourse, had no
22 other reasonable option but to drop the course.

23 224. Ms. Williams was injured and suffered damages which were
24 directly and proximately caused by Penn State's acts or omissions as
25 described in this Count.

26 **COUNT V (In the alternative to Counts VI and VIII)**

27 **Negligent Hiring/Appointment of Title IX Hearing Panel**

28 ***Against Penn State***

1 225. All other paragraphs are incorporated except those in Counts VI
2 and VIII.

3 226. Penn State has a duty, for the benefit of its community members
4 including but not limited to Ms. Williams, to hire or otherwise appoint
5 competent Title IX Decision Panel members such competency to include
6 knowledge of basic medical terminology from rape kits and to conduct
7 hearings without victim shaming rape victims while properly evaluating all
8 available evidence.

9 227. Penn State breached its duty when it hired or appointed a
10 hearing panel that did not know, *inter alia*, to not victim shame Ms.
11 Williams, and it also did not have the ability to understand the terminology
12 used in rape kits.

13 228. It is reasonably foreseeable to Penn State that a hearing panel
14 which, *inter alia*, does not know to not victim shame rape victims, and did
15 not have the ability to understand the terminology used in rape kits, and
16 did not know how to properly evaluate all the evidence presented to it,

17 229. As a direct and proximate result of this breach Penn State
18 ignored evidence that a rapist had sex with Ms. Williams when she was too
19 drunk to consent to sex, directly and proximately causing injury and damages
20 to Ms. Williams.

21 **COUNT VI (in the alternative to Counts V and VIII)**

22 **Negligent Training of Title IX Hearing Panel**

23 ***Against Penn State***

24 230. All other paragraphs, exclusive of those contained in Count V
25 and VIII, are incorporated.

26 231. Penn State has a duty for the benefit of its community members
27 including but not limited to its student Ms. Williams, to train those
28

1 individuals with whom Penn State hires or otherwise appoints to sit on Title
2 IX rape hearing panels to evaluate evidence in the hearing.

3 232. Penn State breached its duty by failing to train its entire
4 hearing panel pool to, *inter alia*, not victim shame rape victims, and to
5 understand the terminology used in rape kits or to properly evaluate all
6 available evidence.

7 233. The inability of a hearing panel to understand or evaluate the
8 evidence presented in a rape case is a reasonably foreseeable consequence of
9 failing to train the panel members to perform those functions.

10 234. This breach directly and proximately resulted in Penn State
11 ignoring evidence that a rapist had sex with Ms. Williams when she was too
12 drunk to consent to sex, directly and proximately causing injury and damages
13 to Ms. Williams.

14 235. Penn State breached its duty to train when it failed to ensure
15 that its Title IX hearing panel was trained:

16 a. To know not to victim shame;

17 b. How to evaluate myriad evidence of the rapist's likely knowledge
18 of Ms. Williams' intoxication including but not limited to:

19 i. statements that the rapist made, being evidence that he
20 knew how drunk Ms. Williams was, including but not limited
21 to that the rapist "had to pour Ms. Williams more alcohol
22 because she was too drunk to do it herself";

23 ii. The rapist's refusal to answer any questions about that
24 evening; and,

25 iii. Statements that Ms. Williams was drunk enough the next
26 morning that she needed be taken to a hospital in an
27 ambulance where she had a 0.192 Blood Alcohol Content.

1 Penn State student newspaper, as well as the fact that Penn State was served
2 with the lawsuit on February 20, 2020, Penn State was aware of Ms. Williams'
3 Protected Activity no later than February 20, 2020.

4 244. On February 21, 2020 Penn State suspended Ms. Williams.

5 245. Penn State suspended Ms. Williams in retaliation for engaging in
6 Protected Activity under the First Amendment, Title VI, and Title IX (i.e.,
7 by suing Penn State).

8 246. Causation can be inferred on the non-exclusive basis of the
9 timing between Ms. Williams' Protected Activity under the First Amendment,
10 Title VI, and Title IX of suing Penn State and Penn State's action to deter
11 Ms. Williams and others from engaging in similar protected activity being
12 unduly suggestive of causation, wherein, the day after being served with Ms.
13 Williams' lawsuit, Penn State held a sham hearing which did not include any
14 accusing witnesses or testimony, though said accusing witnesses were found
15 to be credible, Penn State, in an effort to communicate to Ms. Williams, as
16 well as its student body and the public at large that suing Penn State would
17 not be tolerated, suspended Ms. Williams.

18 247. Ms. Williams engaged in further Protected Activity under the
19 First Amendment, Title VI, and Title IX when, on March 11, 2020, when she
20 filed an appeal of her suspension which accused Penn State of retaliation
21 for her lawsuit and for questioning their Title IX investigation.

22 248. On March 18, 2020, Ms. Williams' appeal was denied by Ms.
23 Gaudelius in retaliation for Ms. Williams' protected activity discussed in
24 this Count.

25 249. Causation can be inferred on the non-exclusive basis of the
26 temporal proximity between Ms. Williams' Protected Activity on March 11,
27 2020 and the decision to uphold her suspension on March 18, 2020, as well as
28

1 the decision upholding her suspension by, *inter alia*, blatantly ignoring the
2 two-day notice requirement of witness statements being used in a hearing.

3 250. Ms. Williams was injured and suffered damages which were
4 directly and proximately caused by Penn State's retaliatory actions as
5 described in this Count.

6 **COUNT VIII (In the alternative to Counts V and VI)**

7 **Retaliation- First Amendment (via 42 U.S.C. § 1983) and Title IX**

8 ***Against Penn State***

9 251. All other paragraphs are incorporated except those in Counts V
10 and VI.

11 252. Ms. Williams engaged in Protected Activity under the First
12 Amendment and Title IX on and around April 5, 2018 when she engaged in
13 public speech via Twitter, identifying Penn State, and criticizing their
14 handling of her rape case under Title IX.

15 253. Upon information and belief, including but not limited to the
16 large number of public interactions with Ms. Williams' Twitter post
17 regarding her Twitter comments regarding Penn State and criticizing their
18 handling of her rape case under Title IX, including faculty members of Penn
19 State, Penn State was aware of Ms. Williams' speech identifying Penn State,
20 and criticizing their handling of her rape case under Title IX.

21 254. Upon information and belief, including but not limited to that
22 the Title IX panel ignored numerous pieces of evidence, including but not
23 limited to confessions, medical evidence, text messages, and one rapist's
24 refusal to answer questions beyond "no comment", Penn State, in an effort to
25 communicate to Ms. Williams, as well as its student body and the public at
26 large that criticism of Penn State and its Title IX investigations would not
27 be tolerated, found against Ms. Williams and for her rapist.

Pa. Id. No. 319504

/s/Nelson Berardinelli
Nelson Berardinelli, Esquire
Pa. Id. No. 310581

Trial Lawyers for Kayla Williams

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
WILLIAMSPORT DIVISION

KAYLA WILLIAMS,

Plaintiff,

vs.

PENNSYLVANIA STATE UNIVERSITY, and
BRENDAN PRAWDZIK in his individual
capacity, and MICHELLE YARWOOD in
her individual capacity

Defendants.

Case No. 4:20-cv-00298-MWB

**CERTIFICATE OF COMPLIANCE FOR
AMENDED COMPLAINT IN CIVIL ACTION**

JURY TRIAL DEMANDED

CERTIFICATE

The undersigned hereby certifies that the within complies with the
*Public Access Policy of the Unified Judicial System of Pennsylvania: Case
Records of the Appellate and Trial Courts* regarding confidential information
and documents.

Respectfully submitted on April 27, 2020 by:

THE TRIAL LAW FIRM, LLC

/s/Mart Harris
Mart Harris, Esquire
Pa. Id. No. 319504

/s/Nelson Berardinelli
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